

SEP 18 2002
CLERK, U.S. DISTRICT COURT
ALEXANDRIA, VIRGINIA

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA)
)
 v.) Criminal No. 01-455-A
)
 ZACARIAS MOUSSAOUI) UNDER SEAL

STANDBY COUNSEL'S REPLY IN SUPPORT OF MOTION TO UNSEAL

COME NOW Frank W. Dunham, Jr., Edward B. MacMahon, Jr., Alan Yamamoto and
Gerald T. Zerkin, by counsel, and for their Reply in Support of Motion to Unseal, state as follows:

REDACTED

REDACTED

4. The stated basis for sealing the filings related to the provision of classified information to Mr. Moussaoui are stale and unpersuasive. While the government may have had a legitimate concern that Mr. Moussaoui not know that he was in possession of classified information while he actually possessed that “contraband,” that concern cannot now control as all of the documents at issue have been retrieved. Mr. Moussaoui, assuming no further disclosures by the government, now has no classified information and thus no means to endanger national security as

a result of any classified information. There is no basis to keep these pleadings under seal other than the government's desire for secrecy.

5. Finally, the government falsely attributes to standby counsel a "zeal to embarrass" the government. Nothing could be further from the truth. Standby counsel did not object to sealing these matters while Mr. Moussaoui was in possession of the documents nor are we asking for permission to discuss these matters in the press. All we request here is that these filings that be made public.

Respectfully submitted,

STAND-BY COUNSEL

181
Frank W. Dunham, Jr.
Federal Public Defender
Eastern District of Virginia
1650 King Street, Suite 500
Alexandria, VA 22314
(703) 600-0808

181
Judy Clarke
Federal Defenders of
Eastern Washington and Idaho
10 N. Post, Suite 700
Spokane, WA 99201
(703) 600-0855

181
Gerald T. Zerkin
Assistant Federal Public Defender
Eastern District of Virginia
830 E. Main Street, Suite 1100
Richmond, VA 23219
(804) 565-0880

181
Alan H. Yamamoto
108 N. Alfred Street
Alexandria, VA 22314
(703) 684-4700

181
Edward B. MacMahon, Jr.
107 East Washington Street
P.O. Box 903
Middleburg, VA 20117
(540) 687-3902

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Standby Counsel's Reply in Support of Motion to Unseal upon AUSA Robert A. Spencer, AUSA David Novak, and AUSA Kenneth Karas, U.S. Attorney's Office, 2100 Jamieson Avenue, Alexandria, Virginia 22314 via facsimile and by placing a copy BY HAND in the box designated for the United States Attorney's Office in the Clerk's Office of the U.S. District Court for the Eastern District of Virginia 18th day of September, 2002.

18/
Frank W. Dunham, Jr.